

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

Ashley Mauler,

Plaintiff,

vs.

**Eagle Expressways Inc. and Phillip Tyron
Johnson,**

Defendants.

COMPLAINT

CV No: 1:20-CV-255[LEK/CFH]

Plaintiff, Ashley Mauler, by and through her attorneys, Powers & Santola, LLP, as and for a complaint against the defendants, alleges that at all times hereinafter mentioned:

INTRODUCTORY STATEMENT

1. This is an action seeking damages for personal injuries sustained by the plaintiff as the result of a collision that occurred when a tractor trailer owned and operated by the defendants struck the rear of the motor vehicle operated by the plaintiff.
2. The collision occurred in Columbia County on the "Berkshire Spur" of Interstate 90.
3. One or more of the exceptions set forth in CPLR §1602 applies to this action or claim for damages, including, but not limited to, the exception set forth in CPLR §1602 (2) (iv).

JURISDICTION AND VENUE

4. Jurisdiction is based upon diversity of citizenship pursuant to 28 U.S.C. §1332.
5. The amount in controversy exceeds, exclusive of interest and costs, the sum of \$75,000.00.

6. The plaintiff is a resident of the Commonwealth of Massachusetts. At the time of time of the collision, the plaintiff was a resident of the State of New York.
7. The defendant, Eagle Expressways Inc., is a resident of a state other than the Commonwealth of Massachusetts.
8. The defendant, Philip Tyron Johnson, is a resident of a state other than the Commonwealth of Massachusetts.
9. Venue is proper in this District based upon 28 U.S.C. §1391 (b) (2) on the grounds that this is the judicial district in which a substantial part of the events or omissions giving rise to the claim occurred.

FACTUAL ALLEGATIONS

10. The collision complained of herein occurred on March 10, 2017, at approximately 8:42 P.M.
11. The collision complained of occurred at or near milepost 15 E/B on Interstate 90 in the Town of Chatham, Columbia County, New York.
12. Interstate 90, at or near milepost 15 E/B, is and was at all times a public highway.
13. The defendant, Eagle Expressways Inc, is a corporation organized and existing pursuant to the laws of the State of Illinois with its principal place of business located at in Alsip, Illinois.
14. The defendant, Phillip Tyron Johnson, is a resident of the State of Georgia, residing in Ellenwood, Georgia.
15. The defendant, Phillip Tyron Johnson, was the operator of a certain 2015 Freightliner motor vehicle bearing Illinois registration plate no. P858059.

16. The defendant, Eagle Expressways Inc., was the owner of the 2015 Freightliner motor vehicle bearing Illinois registration plate no. P858059.
17. Upon information and belief, the defendant, Phillip Tyron Johnson, was operating the aforesaid Freightliner motor vehicle with the consent of the owner, express or implied.
18. Plaintiff, Ashley Mauler, was the owner of a certain 2008 Kia motor vehicle bearing New York State registration plate no. GML2174.
19. Plaintiff, Ashley Mauler, was the operator of the 2008 Kia motor vehicle bearing New York State registration plate no. GML2174.
20. At the aforesaid time and place, the defendant, Phillip Tyron Johnson, used and operated the aforesaid Freightliner motor vehicle in such a manner as to cause said motor vehicle to come into collision with rear of the aforesaid Kia motor vehicle.
21. After speaking with the defendant, Phillip Tyron Johnson, at the scene of the collision, New York State Trooper, Matthew B. Spickler, issued a traffic ticket (numbered 2T406Q6V03) to Phillip Tyron Johnson for "following too closely", in violation of New York State Vehicle and Traffic Law section 1129 (a).

AS AND FOR A FIRST CAUSE OF ACTION

22. Plaintiff repeats and realleges each and every allegation contained in paragraphs "1" through "21" above with the same force and effect as if more fully set forth here, and further alleges:
23. By reason of the foregoing collision, the plaintiff, Ashley Mauler, sustained a "serious injury" as that term is defined by Article 51 of the Insurance Law of the State of New York.

24. As a result of the foregoing collision, the plaintiff, Ashley Mauler, suffered "economic loss" in excess of "basic economic loss", as those terms are defined by Article 51 of the Insurance Law of the State of New York.
25. The collision, and the injuries and damages resulting therefrom, occurred as the result of the careless, reckless and negligent conduct of the defendants, in the operation and ownership of defendants' motor vehicle.
26. By reason of the facts aforesaid, Ashley Mauler has been damaged in a sum of money having a present value of up to one million and 00/100 (\$1,000,000.00) dollars.

WHEREFORE, plaintiff demands judgment against the defendants:

- a. On the first cause of action in a sum of money having a present value of up to one million (\$1,000,000.00) dollars;
- b. Together with the costs and disbursements of this action.

Dated: March 3, 2020


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